

Christina A. Rankin, Esq.  
Guess & Rudd P.C.  
510 L Street, Suite 700  
Anchorage, Alaska 99501  
(907) 793-2200 Telephone  
(907) 793-2299 Facsimile  
E-mail: [crankin@guessrudd.com](mailto:crankin@guessrudd.com)

Attorneys for Coast National Insurance Company

Timothy M. Lynch  
Hozubin, Moberly, Lynch & Associates  
711 M Street, Suite 2  
Anchorage, Alaska 99501  
(907) 276-5297 Telephone  
(907) 276-5291 Facsimile  
E-mail: [tlynch@northlaw.com](mailto:tlynch@northlaw.com)

Attorneys for Jay R. McInnis

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

THOMAS C. ASZMUS,	)	
	)	
Plaintiff,	)	
	)	United States District Court No.
vs.	)	Case No. 3:14-cv-_____
	)	
JAY R. McINNIS, and FARMERS'	)	
INSURANCE GROUP OF	)	
COMPANIES,	)	
	)	Superior Court Case No.
Defendants.	)	Case No. 3AN-14-8187 CI
_____	)	

NOTICE OF REMOVAL

Aszmus v. McInnis and Farmers' Insurance Group, Case No. 3:14-cv-\_\_\_\_\_  
State Court Case No. 3AN-14-8187 CI  
Notice of Removal  
Page 1 of 6

To: THOMAS C. ASZMUS  
c/o Marc June, Esq.  
Law Offices of Marc June  
807 G Street, Suite 150  
Anchorage, AK 99501

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Jay R. McInnis, by and through his attorneys, Hozubin, Moberly, Lynch & Associates, and Coast National Insurance Company (incorrectly referred to as "Farmers' Insurance Group of Companies" in the Complaint), by and through its attorneys, Guess & Rudd P.C., hereby remove to this court the state court action described below.

1. Introduction

On July 18, 2014, plaintiff Thomas Aszmus filed a suit against defendants in the Superior Court for the Third Judicial District at Anchorage, Alaska, entitled Thomas Aszmus, Plaintiff v. Jay R. McInnis, and Farmers' Insurance Group of Companies, Defendants, Case No. 3AN-14-8187 CI (hereinafter "the Complaint"). Aszmus asserts in his Complaint that he is an individual who resides in the State of Alaska.

The Complaint alleges, among other things, that defendants breached fiduciary duties to their insured by failing to respond to his tender.<sup>1</sup> Plaintiff's requested a judgment against the defendants for an amount "including but not limited to the

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<sup>1</sup> See Exhibit 1, Complaint ¶ 10 & 14.

unsatisfied portion of the \$3,581,371.85 [confessed] judgment and any non-economic loss” arising from the breach plus costs and attorney fees.<sup>2</sup>

This court has jurisdiction pursuant to 28 U.S.C. § 1446; defendants have attached as Exhibit A a copy of the Complaint. This Notice of Removal is filed within the allotted time for removal. Defendant McInnis was served with the Summons and Complaint on or about August 8, 2014, and defendant Coast National Insurance Company was served with the Summons and Complaint on or about August 12, 2014 -- this notice of removal is filed within the 30-day window provided under 28 U.S.C. § 1446(b).

Defendants have, simultaneously with this filing, also filed their Notice of Removal in the Superior Court of the Third Judicial District at Anchorage.

## 2. Argument

### A. The amount in controversy exceeds \$75,000

The Complaint seeks compensatory damages in an amount in excess of \$75,000. Where a complaint sets forth a specific amount of damages in excess of the jurisdictional amount, then the plaintiff’s allegations are controlling.<sup>3</sup> “The amount in controversy includes the amount of damages in dispute, as well as attorney's fees, if

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<sup>2</sup> Id. at ¶ 14 & p. 4.

<sup>3</sup> See Sanchez v. Monumental Life ins. Co., 102 F.3d 398, 402 (9th Cir. 1996)(“the sum claimed by the plaintiff controls if the claim is apparently made in good faith”) (quoting St. Paul Mercury Indem. Co. v. Red Cab. Co., 303 U.S. 283 (1938)).

authorized by statute or contract.”<sup>4</sup> Plaintiff’s Complaint has specified and amount of damages in excess of \$75,000 -- specifically asking for “the unsatisfied portion of the \$3,581,371.85 [confessed] judgment.”<sup>5</sup> The requisite amount in controversy is satisfied.

B. Complete diversity exists as between Aszmus and Defendants

There exists complete diversity of citizenship between the parties. Thomas Aszmus is a resident of the State of Alaska.<sup>6</sup> Coast National Insurance Company is a California corporation with its principal place of business in California. As such, Coast National Insurance Company is a citizen of the State of California for diversity purposes. Jay R. McInnis is a resident of the State of Arizona.<sup>7</sup> Therefore, there is complete diversity as between Thomas Aszmus and both defendants, in accordance with 28 U.S.C. § 1332(c)(1).

3. Conclusion

The substantive requirements for diversity jurisdiction have been fully satisfied. The amount in controversy in this lawsuit exceeds the jurisdictional requirement of \$75,000 exclusive of interests and costs and there is complete diversity of

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<sup>4</sup> Kroske v. U.S. Bank Corp. 432 F.3d 976, 978 (9th Cir. 2005) citing Galt G/S v. JSS Scandinavia, 142 F.3d 1150, 1155–56 (9th Cir.1998).

<sup>5</sup> Exhibit C further clarifies that only \$755,000 of the \$3,581,371.85 may have been funded.

<sup>6</sup> See Exhibit 1 at ¶ 1.

<sup>7</sup> See Exhibit B p. 6 of Exhibit 1.

citizenship as between Thomas Aszmus and both defendants. Therefore, Jay R. McInnis and Coast National Insurance Company request that this court assume full jurisdiction over this lawsuit.

DATED at Anchorage, Alaska, this 29th day of August, 2014.

GUESS & RUDD P.C.  
Attorneys for Coast National Insurance  
Company

By: s/Christina A. Rankin  
Guess & Rudd P.C.  
510 L Street, Suite 700  
Anchorage, Alaska 99501  
Phone: (907) 793-2200  
Fax: (907) 793-2299  
E-mail: [crankin@guessrudd.com](mailto:crankin@guessrudd.com)  
Alaska Bar No. 0306034

HOZUBIN, MOBERLY, LYNCH &  
ASSOCIATES  
Attorneys for Jay R. McInnis

By: s/ Timothy M. Lynch  
Hozubin, Moberly, Lynch & Associates  
711 M Street, Suite 2  
Anchorage, Alaska 99501  
(907) 276-5297 Telephone  
(907) 276-5291 Facsimile  
E-mail: [tlynch@northlaw.com](mailto:tlynch@northlaw.com)  
Alaska Bar No. 7111030

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of  
August, 2014, I mailed a true and correct copy  
of the foregoing document to:

Marc June, Esq.  
Law Offices of Marc June  
807 G Street, Suite 150  
Anchorage, AK 99501

Timothy M. Lynch  
Hozubin, Moberly, Lynch & Associates  
711 M Street, Suite 2  
Anchorage, Alaska 99501

Guess & Rudd P.C.

By: /s Christina A. Rankin  
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